

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

MICHAEL DAVID SILLS)
and MARY SILLS,)
)
Plaintiffs,) CASE NO. 3:23-cv-00478
v.)
) JUDGE WILLIAM L. CAMPBELL, JR.
SOUTHERN BAPTIST CONVENTION,) Magistrate Judge Chip Frensley
et al.) JURY TRIAL DEMANDED
)
Defendants.)

OBJECTION TO ORDER DENYING DEFENDANTS' MOTION TO STAY
DISCOVERY

Defendant Lyell, by and through counsel, respectfully objects to Magistrate Judge Frensley's November 22, 2023, Order Denying Defendants' Motion to Stay Discovery. (Doc. No. 124)

The Magistrate Judge considered Defendants' Motion as if they raised routine discovery issues to be decided within his discretion — as motions to stay discovery typically are. But, as set forth in the Defendants' Motion to Dismiss, Joint Motion to Stay, and Memoranda in Support, (Doc. Nos. 75, 76, 117, 118, and 121), there is a serious threshold issue presented in this case regarding the limits imposed by the First Amendment on the authority of a secular court to permit use of its process to intrude upon the self-governance of a religious organization or to adjudicate internal disputes of church polity or doctrine. To embark on discovery prior to resolution of this threshold issue would undermine the core reasons for the ecclesiastical abstention doctrine. *See Our Lady of Guadalupe School v. Morrissey-Berru*, 140 S. Ct. 2049, 2055 (2020).

It would also be an error to permit Plaintiffs to embark on a fishing expedition through discovery, without first requiring them to comply with Federal pleading requirements. Plaintiffs' implausible and conclusory allegation that there was some grand conspiracy among the disparate parties who commissioned, conducted, or cooperated with the independent Guidepost investigation into the Southern Baptist Convention's historical handling of allegations of sexual abuse does not meet those requirements. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007); e.g., Compl. ¶¶ 50, 61, 63, 80-92, 95-97, 104, 107, 110-112, 114-116. Plaintiffs did not merely fail in the complaint to plead their claim of purported conspiracy credibly or with any specificity. Plaintiffs' subsequent initial disclosures in this case fail to name a single witness (beyond themselves), nor do they specifically identify any documents to support their broad allegations of conspiracy.

Of greatest concern, the Magistrate Judge's Order would permit David Sills, an abuser, to use the process of this Court to drag Jennifer Lyell through litigation in which he seeks now, belatedly, to revise his prior admissions of wrongdoing and assert claims that are time-barred on their face. The only statements that David Sills alleges Ms. Lyell made within the year prior to filing of suit do not even mention the Plaintiffs. As explained in the Memorandum in Support of Defendant Lyell's Motion to Dismiss (Doc. No. 76), those statements are not defamatory as a matter of law.

One result from allowing discovery to proceed prior to the Court's ruling on the dispositive motions pending may well be to discourage and dissuade other victims of sexual abuse from reporting what happened to them. Great courage has already been required of those women, like Jennifer Lyell, who have stepped up to be counted. Plaintiffs should not be allowed to drag her through discovery in this Court, prior to consideration of the several valid grounds for dismissal

asserted by all the Defendants. The pundits and apologists for David Sills, who continue to attack Ms. Lyell online and in the media, have already done enough harm.

For the reasons set forth above and detailed in Defendants' Joint Motion to Stay, discovery should be stayed pending the Court's ruling on the Defendants' motions to dismiss.

Respectfully submitted,

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By: /s/ Ronald G. Harris

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CERTIFICATE OF SERVICE

I hereby certify that on this the 5th day of December 2023, the foregoing was served via the court's electronic filing system and/or by email on the following counsel of record:

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